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**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION**

IN RE PHILO PRIVACY LITIGATION

Case No. 4:22-cv-04296-HSG

**STIPULATED REQUEST FOR ORDER
CHANGING TIME REGARDING
BRIEFING DEADLINES SET FORTH
BY THE LOCAL RULES; ORDER**

1 Plaintiffs James Newlands, Christy Emerson, Matthew Kirschenbaum (“Plaintiffs”), and
 2 Defendant Philo, Inc. (“Philo” or “Defendant”) (together, “the Parties”), stipulate, and request
 3 that the Court order pursuant to their stipulation, as follows:

4 WHEREAS, this is a stipulated request for an order changing time under Civil Local Rule
 5 6-2 to reset certain briefing deadlines set forth in the Local Rules in the above-captioned case;

6 WHEREAS, on **December 5, 2022**, Philo filed a motion to dismiss Plaintiffs’ amended
 7 consolidated class action complaint (*see* ECF No. 63), which noticed a hearing date on **March 9,**
 8 **2023** (the then next available hearing date on the Court’s calendar as of **December 5, 2022**);

9 WHEREAS, pursuant to Local Rule 7-3, Plaintiffs’ opposition brief to the motion to
 10 dismiss must be filed by **December 19, 2022**, and Philo’s reply brief in support of the motion to
 11 dismiss must be filed by **December 26, 2022**;

12 WHEREAS, on **December 9, 2022**, Philo filed a motion to stay discovery pending
 13 resolution of Philo’s motion to dismiss Plaintiffs’ amended consolidated class action complaint
 14 (*see* ECF No. 65), which noticed a hearing date on **March 23, 2023** (the then next available
 15 hearing date on the Court’s calendar as of **December 9, 2022**);

16 WHEREAS, pursuant to Local Rule 7-3, Plaintiffs’ opposition brief to the motion to stay
 17 must be filed by **December 23, 2022**, and Philo’s reply brief in support of its motion to stay must
 18 be filed by **December 30, 2022**;

19 WHEREAS, due to the forthcoming holidays, obligations on other matters, and because
 20 oral argument for both motions will not take place until March 2023, the Parties have agreed to
 21 extend and coordinate the briefing schedules for both of Philo’s pending motions;

22 WHEREAS, this stipulated requested briefing schedule modification will have no effect
 23 on the case schedule (*see* ECF No. 46 (Scheduling Order)) or the hearing dates already set for
 24 Philo’s two pending motions;

25 WHEREAS, the Parties agree having both Philo’s motion to dismiss Plaintiffs’ amended
 26 consolidated class action compliant (*see* ECF No. 63) and Philo’s motion to stay discovery
 27 pending resolution of Philo’s motion to dismiss Plaintiffs’ amended consolidated class action
 28

1 complaint (*see* ECF No. 65) proceed on the same schedule and heard on the same day would
2 promote efficiency;

3 WHEREAS, before this case was consolidated (*see* ECF No. 42), the Parties in the
4 underlying *Newlands* action twice stipulated to extend Philo's deadline to answer or move to
5 dismiss Plaintiff's complaint, *see* ECF Nos. 22, 34, and initial deadlines in both the underlying
6 *Newlands* and *Nickerson* actions were reset as a result of judicial reassignment.

7 WHEREAS, the Court previously granted the Parties' request to extend the November 16,
8 2022 deadline to file an ESI Protocol by one week to November 23, 2022 (*see* ECF No. 55),
9 which the Parties subsequently filed in a timely fashion (*see* ECF No. 58);

10 WHEREAS, the stipulated deadlines below reflect the Parties' good-faith agreement on
11 the most reasonable way to conduct the action fairly and efficiently;

12 WHEREAS, the declaration required by Local Rule 6-2(a) is attached to this motion as
13 Exhibit A.

14 NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by the Parties
15 through their counsel, subject to the Court's approval, that:

16 1. Plaintiff shall file any opposition brief(s) to Philo's motion to dismiss (ECF No.
17 63) and Philo's motion to stay discovery (ECF No. 65) by **January 26, 2023**.

18 2. Philo shall file any reply briefs in support of its motion to dismiss (ECF No. 63)
19 and its motion to stay discovery (ECF No. 65) by **February 23, 2023**.

20 3. The Parties request to have hearing on both Philo's motion to dismiss (ECF No.
21 63) and Philo's motion to stay discovery (ECF No. 65) on the same day as the Court's calendar
22 permits, no earlier than March 9, 2023 (the noticed hearing date for Philo's motion to dismiss
23 (ECF No. 63)).

24 Dated: December 14, 2022

Respectfully submitted,

25 By: /s/ Douglas I. Cuthbertson

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**ORDER RESETTING BRIEFING DEADLINES SET FORTH BY THE LOCAL
RULES**

Pursuant to stipulation, IT IS SO ORDERED.

DATED: 12/14/2022


Hon. Haywood S. Gilliam, Jr.
United States District Judge